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FISCAL IMPACT STATEMENT

LS 7327

BILL NUMBER: SB 523

NOTE PREPARED: Jan 19, 2015

BILL AMENDED:

SUBJECT: Marion County Small Claims.

FIRST AUTHOR: Sen. Young R Michael

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill replaces the existing Marion County township small claims court system with a countywide small claims court system having nine divisions.

It provides that the judges of the small claims court shall be elected in a countywide election, and that a division of the Marion County small claims court shall be located in each township.

Effective Date: Upon passage.

Explanation of State Expenditures:

Explanation of State Revenues: More cases may be filed in the small claims courts due to the dollar value limit of jurisdiction increasing from \$6,000 to \$10,000. Shifting civil cases from a court of record to Marion County small claims courts could reduce revenue to the state General Fund by an estimated \$350,000 from court fees.

Currently, actions to collect debts and other types of civil cases in excess of \$6,000 are filed as civil plenary actions with a filing fee of \$100. Of this fee, 70%, or \$70, is deposited in the state General Fund if the case is filed in a trial court. Consequently, the state General Fund would lose \$70 for every case that would now be filed in the Marion County trial courts as a civil plenary case and, instead, would be filed in the Marion County Township small claims court.

Additional Information: The effects on case filings from a 1990 change in Marion County's small claims courts' jurisdiction from \$3,000 to \$6,000 was used to estimate the effects of this proposed change. Civil cases filed in Marion County were 21% less during the three-year period after enactment of the jurisdiction change as compared to the three years before the increase. During the same period, the civil filings in all other counties in Indiana increased by 15%, and small claims cases filed in Marion County township small claims courts also increased by 11%.

Summary of NET Local Impact: The bill potentially results in a revenue gain to township general funds of \$182,500 and a loss to Marion County and its municipalities of \$150,000, from changes to small claims court jurisdiction.

Salaries for small claims court judges will increase on average by \$31,570, although some townships will have reduced judicial salary expense. Some of the increase is based on the change of small court judge position from part-time to full-time.

The docket fee and fee for initial serving of process will transfer from the township in which the case was filed to the township to which the case is assigned. In 2013, revenue from the filing or docket fee of township small claims courts ranged from \$174,394 to \$392,176. With even distribution of cases, the court divisions on average will receive \$262,985 from an equal distribution of docket fees.

Townships will still provide facilities and personnel (clerks), but random distribution of cases may change the facilities or the numbers of personnel needed.

Explanation of Local Expenditures: *Summary:* Expenditures by townships for facilities and salaries may increase an indeterminate amount if caseload increases. The costs will shift among the townships as caseload is distributed randomly among the nine courts, rather than being primarily based on the location of filing. The statutory salary for small claims court judges will increase average salary by \$24,087.

Expenditures for Facilities and Staff: The requirements for the township trustee to provide facilities and equipment for the courts does not change. However, if additional cases are filed in small claims court as a result of the increase in the dollar value of the court's jurisdiction or the redistribution of cases, the existing facilities may no longer match the requirements. Under the bill, a township must hold a public hearing to change the location of a township court.

The current law minimum of \$5,600 for clerks of the small claims court is removed, but the standard for an appropriate and competitive salary remains. There are no data to indicate how clerks' salaries may be affected by this change.

Judge's Salary: Small claims court judge would be a full-time position (currently, it is a decision of the township for the position to be full-time or part-time), and the compensation would be set by statute at 70% of the state portion of the salary paid the Marion County circuit court judge. In CY 2013, small claims court judges were paid \$69,534 on average, ranging from \$59,501 to \$103,692. Seventy percent of the 2013 Marion County circuit court salary is estimated at \$93,621, or \$24,087 more than the average paid by the townships. [Note: Outside of being a small claims court judge, judges currently may maintain a law practice, in certain circumstances. The small claims court judges will not be allowed to do so under the bill. This could reduce the total compensation that small claims court judges earn overall.]

Court administration would transfer from the Marion County circuit court judge to the executive committee of the small claims court. The executive committee is composed of two of the small court judges, from different parties, elected by the other small claims court judges, with one of the two being selected the presiding judge. The executive committee will set policy for the small claims court and assign judges to township division courts if the judges cannot decide among themselves. The actions of the executive committee may be overridden by the other seven judges.

The city-county council may have very minimal reduced meeting time to approve the salary of part-time small claims court judge salaries.

Venue Changes: A request by the defendant to transfer the case to the circuit court must be made in 3 days under current law, but 10 days under the bill. The impact of this change is indeterminate, but could result in additional cases being venued out to circuit court where trials may be heard by a jury.

Explanation of Local Revenues: *Jurisdiction:* In addition to the cases currently filed in small claims courts, it is estimated that 5,000 more cases will be filed in a small claims court instead of a trial court. (See *Explanation of State Revenue*). Changing the jurisdiction of small claims courts will potentially increase court fee revenue for the small claims courts and decrease court fee revenue for Marion County and its municipalities.

Random Distribution: Cases, filed at any of the small claims courts, are to be randomly distributed among the small claims courts divisions by the circuit court clerk, in the manner determined by the executive committee. The docket fees and initial process serving fee is to transfer with the case as determined by the executive committee. The initial process serving fee is \$13 and the docket fees are \$37, (\$5 plus \$31.50, which is 45% of the infraction or ordinance violation costs rounded up).

If a person files less than 11 cases, the cases are to be individually distributed, but if the person files more than 11 cases, they are to be distributed in groups of 10, with remainder lots distributed in a group as well. Depending on the rules for distribution decided by the small claims court executive committee, random distribution could lead to more even caseloads among the courts. If the 2013 new filings were distributed equally among the nine courts, each court would have 7,054 new cases filed and receive revenue of \$91,702 from the initial process serving fee and \$260,998 from docket fees. The table below shows the actual cases filed and revenue from docket fees collected in 2013, the estimated initial process serving fee for the 2013 cases filed, and the difference of these with the cases and fees based on an equal distribution. [Process serving fees are used to compensate constables, while the docket fee goes to the township general fund.]

Small Claims Court	Actual 2013			Difference If Equal Distribution of New Filings		
	New filings	Docket Fees*	Initial Process Serving Fee**	New filings	Docket Fees	Initial Process Serving Fee
<i>Equal Distribution</i>				7,054	\$260,998	\$91,702
Center	10,721	392,176	139,373	(3,667)	(131,178)	(47,671)
Decatur	4,478	189,122	58,214	2,576	71,876	33,488
Franklin	5,672	210,937	73,736	1,382	50,061	17,966
Lawrence	7,800	288,701	101,400	(746)	(27,703)	(9,698)
Perry	5,548	204,290	72,124	1,506	56,708	19,578
Pike	10,112	373,663	131,456	(3,058)	(112,665)	(39,754)
Warren	5,926	222,224	77,038	1,128	38,774	14,664
Washington	4,705	174,394	61,165	2,349	86,604	30,537
Wayne	8,525	311,355	110,825	(1,471)	(50,357)	(19,123)
Source: 2013 <i>Indiana Trial Court Statistics</i> .						
*Docket fees as reported do not equal \$37 when divided by the new filings due to rounding. Decatur Township small claims court is equal to \$42 per case.						
**The actual 2013 revenue from the process serving fee averages \$41.67 per case filed, suggesting that more than one process is served per case. The bill would transfer just the revenue from the initial process served, so the number of new filings was multiplied by the statutory initial processing fee of \$13.						

State Agencies Affected: State General Fund.

Local Agencies Affected: Townships and trial courts in Marion County, small claims courts.

Information Sources: Gateway for Government, State Employee Salaries from Indiana Transparency Portal, 2013 *Indiana Trial Court Statistics*.

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